

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

DAVID MARSHALL,)	
)	
Petitioner,)	
)	
v.)	CASE NO. CV420-198
)	
SHERIFF JOHN T. WILCHER,)	
)	
Respondent.)	
)	

O R D E R


Before the Court is the Magistrate Judge's June 1, 2022, Report and Recommendation (Doc. 4), to which no party has filed objections. After a careful review of the record,¹ the Report and Recommendation (Doc. 4) is **ADOPTED** as the Court's opinion in this case. As a result, this action is **DISMISSED WITHOUT PREJUDICE**. See Gore v. Crews, 720 F.3d 811, 815 (11th Cir. 2013) (per curiam) ("If a petitioner fails to exhaust his state remedies, a district court must dismiss the petition without prejudice to allow for

¹ The Court reviews de novo a magistrate judge's findings to which a party objects, and the Court reviews for clear error the portions of a report and recommendation to which a party does not object. 28 U.S.C. § 636(b)(1); see Merchant v. Nationwide Recovery Serv., Inc., 440 F. Supp. 3d 1369, 1371 (N.D. Ga. 2020) (citing Macort v. Prem, Inc., 208 F. App'x 781, 784 (11th Cir. 2006) (per curiam) (outlining the standard of review for report and recommendations)).

such exhaustion." (citations omitted)). The Clerk of Court is **DIRECTED** to close this case.

Applying the Certificate of Appealability (COA) standards, which are set forth in Brown v. United States, Nos. 407CV085, 403CR001, 2009 WL 307872, *1-2 (S.D. Ga. Feb. 9, 2009), the Court discerns no COA-worthy issues at this stage of the litigation, so no COA should issue. 28 U.S.C. § 2253(c)(1); see also Johnson v. Warden, Ga. Diagnostic & Classification Prison, 805 F.3d 1317, 1322 (11th Cir. 2015) (per curiam) ("In order to appeal from the dismissal of a § 2241 petition, a state prisoner must obtain a COA." (citations omitted)).

SO ORDERED this 21st day of June 2022.



WILLIAM T. MOORE, JR.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA